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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,011	06/22/2005	Herbert Baltes	48679	1631
<div>1609 7590 02/10/2009 ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P. 1300 19TH STREET, N.W. SUITE 600 WASHINGTON,, DC 20036</div>				
EXAMINER				
WALTERS, RYAN J				
ART UNIT		PAPER NUMBER		
3726				
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02/10/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,011

Applicant(s)

BALTES ET AL.

Examiner

RYAN J. WALTERS

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is responsive to the amendment filed on 1/12/2009. That amendment has been entered, and the following is a new rejection (required in view of applicant's argument that the Weber reference, PGPub 2004/0238054, does not qualify as prior art under 35 USC 102).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 11- 12, 14-16, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasegawa (US 5,311,910).**

3. In regards to **Claim 11** as best understood, Hasegawa discloses a method for producing a piston accumulator, comprising the steps of: mounting a piston 2 in an accumulator housing 1a for movement along a longitudinal axis of the housing with the piston 2 separating an interior of the housing 1a into two working chambers S1, S2 between first and second longitudinal ends of the housing 1a (Col. 2, lines 35-43); providing at least a first shoulder 1b in the interior of the housing 1a adjacent to but spaced from the first longitudinal end of the housing (Fig. 3; Col. 3, lines 40-46); inserting a first cover component 5 at least partially within the housing 1a through the first longitudinal end when open until an inner surface portion 5c of the first cover component 5 engages the first shoulder 1b preventing further insertion of the first cover

component (Fig. 3; Col. 3, lines 40-46); deforming a first end portion of the housing 1a between the first shoulder 1b and the first longitudinal end at an acute angle relative to the longitudinal axis (See Fig. 4 where forming tool 10 deforms an acute angle into housing 1a) against an axial outer circumferential contact surface extending at a corresponding acute angle relative to the longitudinal axis (contact surface is the acute angle portion on the forming tool 10 which deforms housing 1a; Note that forming tool 10 is composed of multiple pieces and thus this contact surface can be considered an outer axial surface; Fig. 4) and about an axial outer surface portion of the first cover component 5 to secure the first cover component 5 in the housing 1a with the first cover component 5 sealing the first longitudinal end of the housing 1a closed (Fig. 4 and 5; Col. 3, lines 47-68); and sealing the second longitudinal end of the housing closed (Fig. 1; second cover component 9 seals the second longitudinal end of the housing).

4. In regards to **Claim 12**, Hasegawa discloses that the first longitudinal end has an end edge deformed to be substantially flush with the outer surface portion (Fig. 5).
5. In regards to **Claim 14**, see Fig. 3 where the cover component tapers outward along the contact surface at 5c.
6. In regards to **Claim 15**, Hasegawa discloses axially forcing a shaping tool 10 against the longitudinal end to deform the first end portion (Fig. 4a, b). Note the acute angle bevel of shaping tool 10 in Fig. 4b.
7. In regards to **Claim 16**, see Fig. 3 where 1b is a transition point between different wall thicknesses.

8. In regards to **Claim 24**, portion 1b of housing 1a acts as an insertion bevel widening toward an exterior of the housing (Fig. 3).
9. In regards to **Claim 25**, the cover component 5 has a height at least twice a height of a deformed section 5a (Fig. 5).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. **Claims 17-22 and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa (US 5,311,910).**

13. In regards to **Claim 17**, Hasegawa discloses an insertion bevel on an interior surface of the housing which tapers inwardly guiding the cover component (at 1b in Fig. 3). However, the aforementioned bevel does not taper from a free end edge of the

longitudinal end. It would be obvious to one of ordinary skill in the art to position the insertion bevel at a free end edge of the longitudinal end for the purpose of ensuring that the cover component will be positioned properly when it is being inserted into the housing and also since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

14. In regards to **Claims 18-20, 26 and 30**, Hasegawa discloses that the second end of the housing is sealed by a second cover component 56. All of the limitations in claims 18-20, 26 and 30 for the second cover component are identical to those of the first cover component already discussed. It would be obvious to one of ordinary skill in the art to modify the second cover component on the other end of the housing to have the identical features and installation and deformation procedures as the first cover component for the purpose of optimizing the seal on the other end of the housing and also since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. In *re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

15. In regards to **Claims 21-22**, it would be obvious to one of ordinary skill in the art to deform both end portions simultaneously for the purpose of saving manufacturing time.

16. In regards to **Claims 27-28**, it would be obvious to one of ordinary skill in the art to deform the first end portion at an obtuse angle for the purpose of creating the desired geometric profile.

17. In regards to **Claim 29**, Hasegawa discloses that the deformed section 5a extends directly from the first longitudinal end 1a (Fig. 5).

18. Claims 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa (US 5,311,910) in view of Masanobu (JP 03092679A).

19. In regards to **Claim 13**, Hasegawa does not disclose that a projection extends axially from the outer surface portion of the first cover component. However, Masanobu teaches providing a projection 28 extending axially from the outer surface portion of a cover component 26 (Fig. 3). It would be obvious to one of ordinary skill in the art to incorporate such a projection in the cover component for the purpose of allowing connection to an associated oil chamber.

20. In regards to **Claim 23**, Hasegawa does not disclose inserting the first cover component by a feed bevel of a positioning tool enclosing an edge of the housing. However, Masanobu teaches inserting a cover component 6 by a feed bevel of a positioning tool 13 enclosing a free end edge of the first end portion of the housing 2 (Fig. 2c). It would be obvious to one of ordinary skill in the art to utilize a positioning tool while inserting a cover for the purpose of ensuring that the cover component will be positioned properly when it is being inserted into the housing.

Response to Arguments

21. Objection to specification has been withdrawn.

22. Applicant's arguments with respect to claims 13 and 17 have been considered but are moot in view of the new ground(s) of rejection.

23. Applicant's arguments in regards to claims 11-12, 14-15, 18 and 24 have been fully considered but they are not persuasive.

24. In regards to Claim 11, note the portion of shaping tool 10 deforming the longitudinal end at an acute angle in Fig. 4b. Applicant argues that claim 11 recites that the deformation is against a cover component contact surface extending in an acute angle relative to its longitudinal axis. It is noted that the features upon which applicant relies (i.e., that the deformation is against a **cover component** contact surface) are not recited in the rejected claim 11. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

25. In regards to Claim 12, note Fig. 5 which shows the end edge to be substantially flush with the outer surface portion.

26. In regards to Claim 14, the applicant argues that the Hasegawa surface 5c is not the contact surface for receiving the deformed portion and that surface tapers toward the inside not outside. However, the surface 5c does taper toward the outside from the right of the cover to the left of the cover. Further, it is noted that the features upon which applicant relies (i.e., that the contact surface is where the deformed portion is received) are not recited in the rejected claim 14 or claim 11 which it is dependent upon. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

27. In regards to Claim 15, note that the angled bevel of tool 10 provides an axial force when the tool is pressed against the longitudinal end even though the tool is being pressed radially inwardly.

28. In regards to Claim 18, the examiner respectfully disagrees and stands by the rejection that it would be obvious to perform the same steps on an opposite side.

29. In regards to Claim 24, it is noted that the features upon which applicant relies (i.e., an insertion bevel in combination with a stop) are not recited in the rejected claim 24 or claim 11 which it is dependent upon. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

30. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. WALTERS whose telephone number is (571)270-5429. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. J. W./
Examiner, Art Unit 3726

/DAVID P. BRYANT/
Supervisory Patent Examiner, Art Unit 3726